UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/909,220	07/19/2001	Ronald L. Gebhardt JR.	D2642	9716

			EXAMINER
27774	7590	10/21/2004	ARTHUR JEANGLAUDE, GERTRUDE

MAYER, FORTKORT & WILLIAMS, PC
251 NORTH AVENUE WEST
2ND FLOOR
WESTFIELD, NJ 07090

ART UNIT	PAPER NUMBER
2144	

DATE MAILED: 10/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

		Application No.	Applicant(s)	
Office Action Summary		09/909,220	GEBHARDT ET AL.	
		Examiner	Art Unit	
		Gertrude Arthur-Jeanglaude	2144	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _19 July 2001_.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is

     closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _1-31_ is/are pending in the application.

     4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) _1-31_ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on _19 July 2001_ is/are: a)☒ accepted or b)☐ objected to by the Examiner.

     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

     a)☐ All b)☐ Some * c)☐ None of:

        1.☐ Certified copies of the priority documents have been received.

        2.☐ Certified copies of the priority documents have been received in Application No. _____.

        3.☐ Copies of the certified copies of the priority documents have been received in this National Stage

            application from the International Bureau (PCT Rule 17.2(a)).

   * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _80103_.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

Claims 1, 11, 24 are rejected under 35 U.S.C. 112, second paragraph, as being

indefinite for failing to particularly point out and distinctly claim the subject matter which

applicant regards as the invention.

In claims 1, 24 the phrase "that is intermediate the elements and the network" is

unclear.

In claim 11, after the number 9, the phrase "wherein the if new code" is unclear.

Claims 2-23, 25-31 are also rejected for incorporating the deficiencies of their

base claim.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-15, 18-31 are rejected under 35 U.S.C. 102(b) as being anticipated by

Monaghan (EP 1 022 699 A2).

As to claim 1, Monaghan discloses a method for operating a networked group of

elements (16a-16d) as shown in Fig.1, comprising the steps of: providing at least one of

the elements on a network with instructions that are located in the element (considered as table of addresses for each of the terminal (elements)); and copying at least some of the instructions to a proxy (14) that is intermediate the elements and the network (18) (See abstract).

As to claims 2-4, Monaghan discloses the instructions comprise information for the integration of the element into the network; and also the instructions comprise information for driving an interface. (See abstract; as the proxy has a table of addresses, one for each of the terminals (elements) of the terminal network and a two way communication takes place (via an interface) between the manager unit (12) and the terminal network (18).

As to claim 5, Monaghan discloses that the proxy unit (14) has a table of addresses, one for each of the terminals (See abstract) therefore, it is considered that the proxy has sockets to which the elements are connected, and the proxy polls the sockets to determine the presence of elements that contain new information (See col. 3, lines 10-28).

As to claim 6, Monaghan discloses if the proxy determines the presence of an element that contains new information, that new information is copied to the proxy (See abstract).

As to claims 7-11, 18-20, Monaghan discloses all such as the proxy interrogates an element to determine its device type; the proxy interrogates an element to determine its device iteration; the proxy interrogates an element and determines whether it contains new code; the proxy determines whether the code is new by comparing at

least a portion of it to existing code located on the proxy; if new code is found, the

proxy copies a sub-agent from the element to the proxy (via an IP address (code) and

TCP/IP (See col. 2, paragraph 0015-0016).

As to claims 12-15, Monaghan discloses a sub-agent (12) as shown in Fig. 1 is

written to execute within the proxy (14); and wherein the sub-agent does not execute

within the element (16a-16d); further, the sub-agent contains all the code necessary

to translate commands from the network to the element, retrieve a response from

the element, and transmit a response back from the element to the network; and the

sub-agent monitors the element (See abstract paragraph on the right).

As to claims 21-23, Monaghan discloses the element (16a-16d) as discussed

wherein the element inherently has memory sufficient to store at least two versions of

instructions; and the instructions are provided in the form of software and inherently

firmware (See col. 3, paragraph 0016, 0020-0022). Paragraph 0016 shows a two

different communications protocol.

As to claim 24, Monaghan discloses a method for managing a networked group

of elements (16a-16d), comprising the steps of: providing the elements with instructions

that are located in the element; and copying at least some of the instructions to a proxy

(14) that is intermediate the elements and the network.

As to claims 25-27, Monaghan discloses the proxy detects all of the elements on

the network that it manages; and after detecting an element, the proxy interrogates the

element; wherein if an element having new code (IP) is detected, the element transfers

code from the element to the proxy (See col. 2, paragraph 0015-0016).

As to claim 28, Monaghan discloses a sub-agent (12) as shown in Fig. 1

provided on the element is used by the proxy (14) to monitor the element (16a-16d).

As to claim 29, Monaghan discloses a computer network for controlling elements

linked via the network (18), comprising: a network proxy (14); a plurality of

elements(16a-16d) as shown in Fig. 1; code located on the elements (IP protocol), the

code enabling a network to utilize the elements (16a-16d) and executable on the

network proxy (14).

As to claim 30, Monaghan discloses a computer network for controlling elements

linked via the network, comprising: a network proxy (14); Fig. 1 a plurality of elements

(16a-16d); Fig.1 a sub-agent (12) as shown in Fig. 1 provided by the plurality of

elements, the subagent enabling a network to utilize the elements (16a-16d).

As to claim 31, Monaghan discloses a menu agent located on the elements (IP

addresses) for enabling an operator to interface with the element.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set
forth in section 102 of this title, if the differences between the subject matter sought to be patented and
the prior art are such that the subject matter as a whole would have been obvious at the time the
invention was made to a person having ordinary skill in the art to which said subject matter pertains.
Patentability shall not be negatived by the manner in which the invention was made.

Claims 16-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Monaghan (EP 1 022 699 A2) in view of Cohn et al (US 6064723).

As to claims 16-17, Monaghan discloses all but fails to specifically disclose the sub-agent detects the presence of alarm conditions; whereupon detection of an alarm condition, the proxy forwards notice of an alarm condition to the network. In an analogous art, Cohn et al. disclose a network based communications system with proxy or sub-agent wherein an alarm condition is used (See col.12, lines 56-60; col. 21, lines 18-29). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the system of Monaghan with that of Cohn by having a sub-agent to detect the presence of alarm conditions in order to monitor the network.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Hammond   (U.S. Patent No. 6,336,118) discloses a framework within a data processing system for manipulating program objects.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gertrude Arthur-Jeanglaude whose telephone number is (703) 308-7564. The examiner can normally be reached on Monday-Friday from 8:30 a.m. to 6:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Cuchlinski can be reached on (703) 308-3873. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).

GAJ

GERTRUDE A. JEANGLAUDE
PRIMARY EXAMINER

October 18, 2004